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**FILED**

DEC 12 2023

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THOMAS G. BRUTON  
CLERK, U.S. DISTRICT COURT

1 Joseph Immanuel Shelton  
2 (Listed as '91 Gaming Galaxy Shirts'  
3 in schedule A See: Preliminary Injunction)  
Defendant  
3 Tulsa, OK 74129  
4 918-577-0560  
staglore@gmail.com

5 **IN THE UNITED STATES DISTRICT COURT**  
6 **FOR THE NORTHERN DISTRICT OF ILLINOIS**  
7 **EASTERN DIVISION**

8 THOSE CHARACTERS FROM CLEVELAND, Case No. 23-cv-15080  
9 Plaintiff,  
10 vs.  
11 THE INDIVIDUALS, CORPORATIONS,  
12 LIMITED LIABILITY COMPANIES,  
13 PARTNERSHIPS AND UNINCORPORATED  
14 ASSOCIATIONS IDENTIFIED ON  
15 SCHEDULE A HERETO,  
Defendant,

Motion to Dismiss

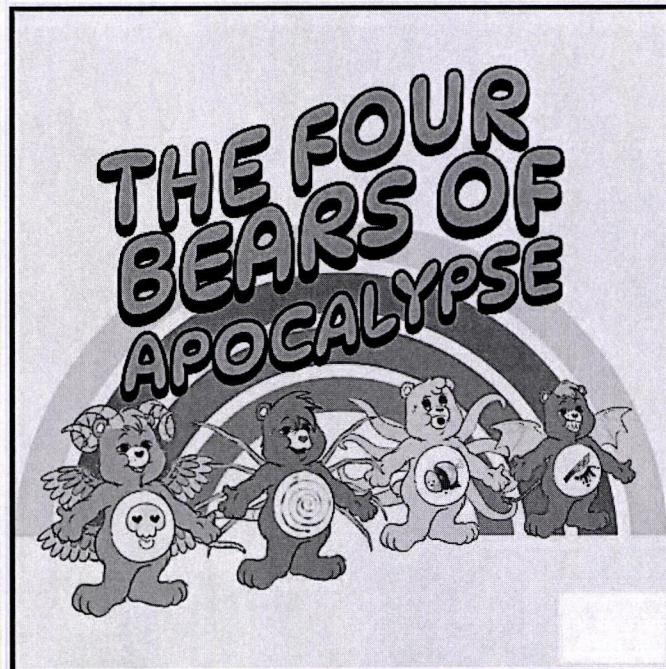
16 **1. MOTION TO DISMISS**

17 I am contesting the claims asserted against me in connection with my parody works  
18 on teepublic. I believe the claim lacks merit, and I am filing this Motion to Dismiss pursuant to  
19 Rule 12(b)(6) of the Federal Rules of Civil Procedure.

21 I, JOSEPH IMMANUEL SHELTON, AM ONE OF THE ALLEGED INFRINGER IN THIS  
22 MATTER AND HEREBY MOVE TO DISMISS ALL CLAIMS IN THE CASE BROUGHT  
23 AGAINST ME BY THOSE CHARACTERS FROM CLEVELAND, LLC.

25 I maintain that the claim is without legal basis and should be dismissed with prejudice. The  
26 purpose of the work in question is to make humorous commentary about children's media. These  
27 designs incorporate macabre and disturbing elements to parody popular characters and concepts.

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3 Example:  
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16 Pictured above are the 'Four Bear of Apocalypse'. This is a clear example of parody. By  
17 definition, a parody is a comedic commentary about a work that requires an imitation of  
18 the work. As demonstrated above these characters are combination of the Four Horseman  
19 of the Apocalypse and Carebear-like characters. Without the likeness to Carebears,  
20 parody is impossible. The antithetical combination of the macabre with child-like  
21 characters is a humorous commentary on societies obsession with both death and  
22 coddling of children. These two concepts combined are meant to illustrate human's  
23 contradictory viewpoints on the future (hope and despair). The characters, while  
24 somewhat similar to Carebears, have a number of differences. (wings, an eyeball for  
25 mouth, tentacles, rat tails, etc) This is a transformative work of parody, and parody falls  
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1 under **Fair Use** (17 U.S.C. § 107) (Campbell v. Acuff-Rose Music, Inc., 510 U.S. 569  
2 (1994)) Carebears are a household name. No reasonable person viewing this work would  
3 see it as anything but a parody.  
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6 The plaintiff's complaint also contends that I have acted as a criminal. They claim I  
7 "operate under multiple fictitious names, there are numerous similarities among the  
8 Defendants' Internet Stores." They assume my residence to be in "People's Republic of  
9 China or other foreign jurisdictions." This claim is categorically false. I operate one  
10 online store and live in the Untied States. (<https://www.teepublic.com/user/gaming-galaxy-shirts>) I have one screen name: Staglore. I use this screen name for my personal  
11 accounts as well. Including Facebook, which also uses my real name. This in direct  
12 contradiction of the plaintiff's claim that I have not gone to "great lengths to conceal their  
13 identities." While the plaintiff's claims might be true for some of the other defendants,  
14 they categorically do not apply to me or my online store.  
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18 I do not draw a large salary and live paycheck to paycheck. I simply cannot afford  
19 prolonged litigation. I should not have to 'pay-to-play' in order to participate in my small  
20 entrepreneurial endeavor.  
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24 Considering the foregoing, I respectfully request that the court dismiss the claims against  
25 me with prejudice. I believe that the claims lacks legal merit and fails to establish a prima  
26 facie case of copyright infringement.  
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1 I hereby certify that a copy of this Motion to Dismiss has been served on William B.  
2 Kalbac (attorney for the plaintiff) via email on 12/5/2023.  
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5 Dated: December 5, 2023  
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8 Respectfully submitted,  
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11 Joseph I Shelton  
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13 Defendant's Name  
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